

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

**COPY**

Plaintiff,

-vs-

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.,

VOLUME I

Defendants.

VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN

DATE: July 21, 2022

TIME: 9:23 a.m. - 5:22 p.m.

LOCATION: Godfrey & Kahn, S.C.  
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15 Moira Demos.

16 \*\*\*

17 ALSO PRESENT:

18 Debra Bursik, Paralegal

19 Moira Demos, Defendant

20 Laura Ricciardi, Defendant

21 Melinda LeMoine, Director, Litigation, Netflix, Inc.



1 Ms. Walker sent but not necessarily to the final  
2 declaration signed by Mr. Colborn.

3 Q So we're going to come back to this  
4 Exhibit 1 throughout the day, and I want to thank you  
5 and your counsel for taking a look at it and agreeing  
6 to what you could agree. I hope it will expedite  
7 things today, but I'm mostly going to point you right  
8 now to Exhibit A, attachment A of Exhibit 1, which is  
9 my original letter.

10 A Okay.

11 Q And there were a handful of enumerated items  
12 to which you declined to agree, and I want to point  
13 you initially to items number 7, 8, and 9. Do you  
14 see those?

15 A Yes.

16 Q And I'll read them out loud for the record.  
17 Number 7 asked you to agree that "At the trial of  
18 Mr. Avery for the murder of Teresa Halbach, a central  
19 part of Mr. Avery's defense was that law enforcement,  
20 including Mr. Colborn, planted evidence to frame him  
21 (hereafter, the 'frame-up theory')." Do you see  
22 that?

23 A Yes.

24 Q And number 8 says, "One part of the frame-up  
25 theory put forth by the defense at Mr. Avery's trial

1        was that Mr. Colborn was looking directly at  
2        Ms. Halbach's vehicle when he made a November 3rd,  
3        2005 call to dispatch." Did I read number 8  
4        correctly?

5            A        Yes.

6            Q        And number 9 says, "A second part of the  
7        frame-up theory put forth by the defense at  
8        Mr. Avery's trial was that Mr. Colborn was involved  
9        in planting the key to Ms. Halbach's vehicle in  
10       Mr. Avery's bedroom." Did I read that correctly?

11          A        Yes.

12          Q        And you declined to admit to these three  
13       factual allegations, correct?

14          A        Yes, I declined to admit to those.

15                    (Exhibit 2 marked for identification.)

16          Q        So I'm handing you what we've previously  
17       marked as Exhibit 2. You can set aside Exhibit 1 for  
18       a second but keep it handy. Often what witnesses do  
19       is they'll just make a stack in order so they can  
20       find things later in the day.

21          A        Okay.

22          Q        Exhibit 2 is the operative complaint in this  
23       case, the Second Amended Complaint. Do you see that  
24       at the top?

25          A        Yes.

1           Q     And I'd like to point you to paragraph 33,  
2     if you could flip there.

3           A     Got it.

4           Q     And paragraph 33 begins, "A central part of  
5     Avery's defense at trial was that Plaintiff and other  
6     Manitowoc officers planted Halbach's SUV at the Avery  
7     Salvage Yard." Did I read that correctly?

8           A     Yes.

9           Q     And so I'm wondering if you can explain to  
10    me why you did not -- why you refused to admit  
11    number 7 on Exhibit 1. And I'll read it again. "At  
12    the trial of Mr. Avery for the murder of Teresa  
13    Halbach, a central part of Mr. Avery's defense was  
14    that law enforcement, including Mr. Colborn, planted  
15    evidence to frame him (hereafter the 'frame-up  
16    theory')." Your counsel has an objection.

17                   MR. BURNETT: I do. Mr. Colborn's -- I  
18    object to the form and a lack of foundation. I'm  
19    going to give Mr. Colborn an instruction. To the  
20    extent that answering that question would require you  
21    to reveal communications, information you learned  
22    from counsel, you should decline to answer that  
23    question on grounds of privilege. To the extent that  
24    you can answer the question as phrased without  
25    revealing privilege, you should go ahead and answer.

1 Q Do you need me to repeat the question?

2 A Please.

3 Q So my question boils down to if your  
4 Complaint alleges in paragraph 33 that a central part  
5 of Avery's defense at trial was that plaintiff and  
6 other Manitowoc officers planted Halbach's SUV at the  
7 Avery salvage yard, then why will you not admit to  
8 proposed stipulation number 7?

9 MR. BURNETT: Same objection. Same  
10 instruction.

11 Q You can answer if you feel you can.

12 A I'm going to decline to answer then.

13 Q Okay. Do you stand by the allegations in  
14 your Complaint, Mr. Colborn?

15 MR. BURNETT: Same objection, form and  
16 foundation. To the extent that you can answer that  
17 question based on your personal knowledge, go ahead.

18 A Yes, I do.

19 Q All right. I'm going to hand you what we've  
20 previously marked as Exhibits 3 and Exhibit 4.

21 (Exhibits 3 and 4 marked for  
22 identification.)

23 MR. BURNETT: Thank you.

24 Q All right. I'm handing you Exhibits 3 and 4  
25 together, Mr. Colborn, because as you'll see,

1 question.

2 Q And I can just state at the outset that  
3 whenever I ask you about who you've talked to or what  
4 they've said, I don't ever mean to ask you about your  
5 conversations with your attorneys.

6 So other than your attorneys, are you  
7 telling me you don't know anything about Kathleen  
8 Zellner's motion on behalf of Steven Avery?

9 A I can't answer as to what is going through  
10 Attorney Zellner's mind and her motion.

11 Q Let me -- let me stop you because that  
12 wasn't my question. My question is you testified you  
13 haven't read her motion; is that correct?

14 A I have not read her motion in its entirety,  
15 that is correct.

16 Q Have you read part of it?

17 A Yes.

18 Q And have you talked about it with people  
19 other than your attorney?

20 A Not that I can specifically recall, but I  
21 have read it --

22 Q And so would you agree --

23 A -- in part. Sorry.

24 Q Would you -- that's okay. It's a habit we  
25 all fall into. Would you agree with me that the

1 parts of her motion you have read or heard about or  
2 talked with people about is a continuation of the  
3 theory of the defense presented by Avery's attorneys  
4 during the trial?

5 A No, I can't make that connection. I'm not  
6 entirely sure what the attorneys at trials -- because  
7 I was never accused in trial of planting evidence, so  
8 I don't know if they were accusing me of that or not.

9 Q Do you think Mr. Avery had a theory at his  
10 trial?

11 MR. BURNETT: Can I hear that question  
12 again?

13 Q Do you think Mr. Avery had a theory at his  
14 trial?

15 MR. BURNETT: Same objection,  
16 foundation.

17 A I wouldn't be able to speculate what  
18 Mr. Avery's theory was.

19 Q Well, you attended parts of the trial,  
20 correct?

21 A I testified at the trial.

22 Q Meaning you attended parts of it?

23 A Yes.

24 Q Did you attend any portion where you did not  
25 testify?

1           A     I believe I was present in the courtroom for  
2     his sentencing.

3           Q     And did you read media reports about the  
4     trial at the time it was happening?

5           A     Not at the time it was happening.

6           Q     After it happened?

7           A     Certainly.

8           Q     And let me just ask point-blank. Are you  
9     sitting here today and is it going to be your  
10    position today that you have no theory of what  
11    Mr. Avery's defense was at his trial?

12          A     That is going to be my position, yes. I'm  
13    not going to speculate as to what his defense  
14    attorney's theory was.

15          Q     I'm asking you as you -- based on your  
16    personal knowledge, I'm not asking you to speculate.  
17    Let me rephrase the question.

18                Based on your personal knowledge as a  
19    Manitowoc sheriff -- a Manitowoc sheriff's deputy, as  
20    a person who testified at the trial, as a person who  
21    attended parts of the trial, as a person who read  
22    nearly contemporaneous media reports about the trial,  
23    and as a plaintiff in this lawsuit many years later,  
24    tell me what you think his theory was as best you  
25    can. And I'm not asking you to speculate. Just

1       **describe it for me.**

2           A       I think the defense's theory was to throw as  
3       much mud against the wall and see what would stick.

4           **Q       What kind of mud did they throw?**

5           A       A lot of procedural questions. That's what  
6       I interpreted the license plate rigma -- numerous  
7       questions about my running the license plate seemed  
8       very procedural to me, and I took that as a desperate  
9       act to get an obviously guilty client off.

10          **Q       So they were trying to get a guilty client**  
11       **off by throwing mud. That's your explanation of the**  
12       **theory of his case?**

13          A       Well, to put it more articulately, I'm sure  
14       they were trying to raise reasonable doubt so that a  
15       jury wouldn't convict him.

16          **Q       Besides the license plate, what other**  
17       **examples or pieces of the theory can you remember and**  
18       **articulate for me?**

19          A       Could I ask you to be more specific, ma'am?

20          **Q       Well, sure. There was something about a**  
21       **key, finding a key, correct, at trial?**

22          A       Yes.

23          **Q       What do you remember about that?**

24          A       One of Avery's defense attorneys asked me  
25       numerous questions about how I happened to locate the



1 key, which I didn't locate it; how the key happened  
2 to be in the position where it was when it was found;  
3 and asked me to describe how that key might have  
4 fallen from a bookcase that we were searching.

5 Q You would agree with me that they certainly  
6 meant to insinuate or suggest that you or Officer  
7 Lenk or some law enforcement officer planted the key,  
8 correct?

9 MR. BURNETT: Objection, form,  
10 foundation, calls for speculation.

11 A Again, I'm not going to speculate as to what  
12 their theory was.

13 Q I'm not asking you to speculate. I'm asking  
14 based on your personal recollection as a personal  
15 witness to the proceedings and a participant in them,  
16 how you would describe their theory and whether  
17 finding the key was part of their theory. That's not  
18 asking for speculation, Mr. Colborn.

19 A Well, I would like to think that my answers  
20 were such that they moved on from that.

21 Q That's not my question. I'm asking you to  
22 describe what your personal understanding of their  
23 theory was.

24 A They were trying to understand how we found  
25 the key and why we didn't find it earlier. Again, I

1 was never accused of planting evidence.

2 Q Who were they throwing mud at? Were they  
3 throwing it at you?

4 A I'm sure they were hoping that I was going  
5 to make some sort of --

6 Q That's not my question. You used the phrase  
7 they were throwing mud.

8 A Uh-huh.

9 Q And I'm asking were they throwing mud at  
10 you?

11 A I think they were questioning our procedure  
12 during the searches, yes.

13 MS. WALKER: So I'm just going to pause  
14 for a minute and direct a comment to your client --  
15 counsel, which is this is going to take a while today  
16 if this is -- if we're going to show him -- have to  
17 show him a lot of documents to get him to articulate  
18 the theory of the case.

19 MR. BURNETT: Well --

20 MS. WALKER: I just want to say that at  
21 the outset so you're not surprised when this drags on  
22 for many hours.

23 MR. BURNETT: Well, if you want, I'll  
24 respond to that. What Mr. Colborn's trying to tell  
25 you is that he attended some parts of the trial and

1       served on you -- I'm just going to give you a date as  
2       to when those were finalized -- back in January,  
3       okay? So about eight months ago or so.

4           A       Okay.

5           Q       And the second document, which I've sort of  
6       pieced out there for you, is revised responses to the  
7       requests for admissions --

8           A       Okay.

9           Q       -- that they served, I think, a few days  
10      ago, the 19th of July. Have you ever seen these  
11      before?

12          A       Yes.

13          Q       Okay. And you agree with everything in your  
14      responses to both documents?

15                   MR. BURNETT: Objection, form.

16          Q       Let me ask it differently. Your clients --  
17      or your attorneys did not draft and serve these  
18      responses without your approval, correct?

19                   MR. BURNETT: That calls for privileged  
20      communications. Decline to answer that.

21          A       And based on the advice of my counsel --

22          Q       Let's talk about a specific one. So --

23          A       Okay.

24          Q       -- three pages in is Request for Admission  
25      Number 3.

1           A     On the first one?

2           Q     On the first one. And the question posed  
3 was, "Admit that at the Criminal Trial of Steven  
4 Avery, Avery's counsel contended that Plaintiff  
5 planted evidence to frame Avery for Teresa Halbach's  
6 murder." Do you see that that's the question?

7           A     Yes, I see it.

8           Q     And then a response is right beneath it, and  
9 it says, "Subject to Plaintiff's general objections,  
10 deny. To 'contend' is defined by Merriam-Webster as  
11 to 'assert,' which is in turn defined as 'to state  
12 (something) in a strong and definite way.' Avery's  
13 attorneys' opening and closing arguments reveal no  
14 strong and definite statement that Plaintiff planted  
15 evidence to frame Avery for Teresa Halbach's murder."  
16 Did I read that correctly?

17          A     Yes.

18          Q     Have you ever reviewed this response before?

19          A     Yes.

20          Q     And you approved of it being your response  
21 to these requests for admissions, correct?

22          A     Yes.

23          Q     Okay. And you denied this in the first  
24 instance. We'll come back to your amended responses  
25 in a minute, but you denied this in the first

1 instance because you said contend means to state  
2 something in a strong and definite way. Do you see  
3 that?

4 A Yes.

5 Q And it was your position, at least at the  
6 time of these responses back in January, that his  
7 attorneys did not do that, correct?

8 A That definition was the work product of my  
9 attorneys. I didn't personally write that.

10 Q But you agreed with what they were saying  
11 here?

12 A Yes, I agreed with them.

13 Q And you similarly responded. Sort of the  
14 same boilerplate language appears in number 5, 6, 7,  
15 8, 9, 10, and 11. Do you see that? I can represent  
16 to you that it does and maybe point you to number 6  
17 just as another concrete example.

18 A Okay.

19 Q So here you were asked to "Admit that at the  
20 Criminal Trial of Steven Avery, Avery's attorneys  
21 contended that Plaintiff made the call to dispatch  
22 referenced in Paragraphs 30 through 32 of the Second  
23 Amended Complaint after Plaintiff had located Teresa  
24 Halbach's SUV." Do you see that?

25 A Yes.

1 Q I read it correctly?

2 A Yes.

3 Q And you made the same objection here, you  
4 said essentially I can't admit that because contend  
5 means to state something in a strong and definite  
6 way. Do you see that?

7 A Yes.

8 Q And you don't think Avery's attorneys  
9 contended that you made the call to dispatch after  
10 you had located the SUV, correct? You don't think  
11 they contended that?

12 MR. BURNETT: Objection, foundation.

13 A No, I don't think they did.

14 Q Do you stand by that definition of contend  
15 as you sit here today, that to contend something, it  
16 has to be stated in a strong and definite way?

17 A Yeah. Yes.

18 Q All right. So, you know, we haven't gotten  
19 to the documentary yet, but when we do, we're going  
20 to use your definition, and I'm going to ask you  
21 things like what did Making a Murderer contend in a  
22 strong and definite way, and I just want to put that  
23 idea in your head so you're ready for it down the  
24 road --

25 A Uh-huh.

1 conviction?" And Brenda said, "Yes and no." And I  
2 said, "Okay." And then she said, "Okay. He felt  
3 defamed, or in my opinion, I would say he felt very  
4 wronged after the trial, during the trial, okay?" I  
5 said, "M-hm." And she said, "But felt redeemed with  
6 the verdict."

7 That's Ms. Schuler's testimony, and my  
8 question for you is do you agree with her assessment?

9 A No.

10 Q Which part do you disagree with?

11 A I didn't feel very wronged after the trial.

12 Q Okay. Any other part you disagree with?

13 A No.

14 (Exhibit 35-B marked for identification.)

15 Q Okay. I'm going to hand you 35-B.

16 A Okay.

17 Q So I'm going to start on line 22 of page 141.  
18 Do you see where I'm at?

19 A Yes.

20 Q And so I'm following up on Ms. Schuler's  
21 testimony, and I say, "So you just testified that he  
22 felt very wronged during the trial, and then he felt  
23 vindicated by the verdict and that he was very upset  
24 by Making a Murderer; is that a fair summary of what  
25 you said?" And she said, "Yes." And I asked, "The

1       reason he felt wronged during the trial by Mr. Buting  
2       and Mr. Strang is because in defending Steven Avery,  
3       they accused Mr. Colborn of planting evidence to  
4       secure Avery's conviction; is that correct?" And  
5       Ms. Schuler said, "That is correct." Did I read that  
6       correctly?

7             A       You did.

8             Q       Okay. And I know you disagree with her  
9       description that you felt wronged, but is there  
10      anything else here in her testimony that you disagree  
11      with?

12            A       I -- the sole -- the reason that I didn't  
13      feel -- that I felt wronged, using your word there,  
14      is not necessarily because of Mr. Buting and  
15      Mr. Strang using as a possible defense planting  
16      evidence. The whole media support of them and lack  
17      of support of us and people in my community that I  
18      know I've helped that may have not believed in law  
19      enforcement, believed in the conviction, that's the  
20      reason I felt wronged.

21            Q       Okay. So I just -- I'm a little confused,  
22      so I just want to clarify. You felt wronged at trial  
23      but not because of Mr. Buting and Mr. Strang; is that  
24      what you're saying?

25            A       Not solely, correct.



1 interviewed for Convicting a Murderer, correct?

2 A Yes.

3 Q And this is how you feel sitting here today,  
4 correct?

5 A Yes.

6 Q Mr. Colborn, are you comfortable at this  
7 point articulating the defense's theory during the  
8 murder trial for Teresa Halbach?

9 A I am not.

10 Q But you dispute that their theory was that  
11 you planted evidence to frame Steven Avery?

12 A As I said earlier, I believe it might be  
13 part of -- part of their defense, yes.

14 Q Okay.

15 A But, again, I must reiterate I was never  
16 accused of planting evidence in trial.

17 Q I'm struggling to see the difference. I  
18 mean, can you explain it to me? You say it was part  
19 of their defense theory that you were not accused.

20 A To be totally honest, I was as shocked as  
21 you. When I'm all done testifying, it's like where's  
22 the planting defense? So I don't know. I don't know  
23 where they were going. I thought maybe they were  
24 shifting gears and going to something else, that they  
25 had realized that we hadn't planted evidence. That

1 Go ahead.

2 A So, again, I wasn't privy to closing  
3 arguments, to all the other witnesses that testified,  
4 but I know that that was part of their defense.

5 (Exhibit 161 marked for identification.)

6 Q I'm handing you what we've marked as  
7 Exhibit 161, and I'll represent to you that this is  
8 part of the transcript from day 7 of Steven Avery's  
9 jury trial.

10 A Okay.

11 Q Do you see that on the very front page?

12 A Yes.

13 Q And I've given you the front two pages of  
14 that transcript, but I'd ask you to flip to the third  
15 page, which is page 201.

16 MR. BURNETT: Did you say this is  
17 Exhibit 161?

18 MS. WALKER: Yeah.

19 Q On page 201 Attorney Kratz is speaking. Do  
20 you see that at the top?

21 A Yes.

22 Q And if you jump to the paragraph at the  
23 bottom of that page, he said, "Now, we've heard  
24 Mr. Strang's opening statement where planted evidence  
25 has been eluded to." Do you see that in the third

1 paragraph at the bottom?

2 A Yes.

3 Q And that's Mr. Kratz referring to this  
4 theory as one of planted evidence. Do you see that?

5 A Yes, I see -- yes.

6 Q Okay. Now skip to the next page, 202.

7 A Okay.

8 Q And I'll tell you, I'll represent to you,  
9 that this is a transcript of argument Mr. Kratz was  
10 making to the judge directly after you left the  
11 stand, okay? At the bottom of page 202, he says,  
12 "Now, for the first time, when evidence should be  
13 placed into the record, or at least placed into this  
14 particular case, we hear nothing. And so, Judge, I'm  
15 asking for alternative direction, or rulings from the  
16 Court, first, if the defense is abandoning their  
17 planting evidence theory."

18 Do you see he called it a planting evidence  
19 theory right there?

20 A Yes, I see he called it that, but he's also  
21 asking if it was abandoned.

22 Q And I'll represent to you that the judge at  
23 the end of this transcript says it had not been  
24 abandoned. Are you aware of that?

25 A No, because I wasn't there for this.

1           Q     But I just want to ask then if you agree  
2     with Mr. Kratz and if for the rest of the day we can  
3     call this theory the planting evidence theory?

4           A     Well, I'm not going to agree that there was  
5     an evidence planting theory with me. As I've said  
6     numerous times this morning, I was never accused of  
7     planting evidence in trial.

8           Q     So let me point you to page 204.

9           A     Okay.

10          Q     And here we have Attorney Strang responding  
11     to Mr. Kratz, and he starts a paragraph at the bottom  
12     of the page with the word "second." Do you see that?

13          A     Yes.

14          Q     Keep in mind, this is just after you stepped  
15     down from the stand. Do you see that? He says,  
16     "Second, just by the by, we haven't gotten to the  
17     defense case-in-chief yet at all. We're in the  
18     prosecution case-in-chief. So all of this, at some  
19     level, would be wildly premature. But, beyond that,  
20     to confront it most directly, I'm idealistic. I'm  
21     certainly naive at times. I am not so naive to think  
22     that someone who may have planted blood evidence, who  
23     may have been involved in planting a key, would come  
24     into this courtroom, and simply, because I asked  
25     under oath, did you do it, say, oh, yes, I did. We

1 are not going to have a Perry Mason moment here."

2 Did I read that correctly?

3 A Yes.

4 Q So Mr. Strang here is saying just because I  
5 didn't ask Mr. Colborn directly did you plant  
6 evidence doesn't mean we're abandoning the planted  
7 evidence theory. Is that your understanding of what  
8 I just read to you?

9 A No, not really.

10 Q Okay. We'll let the transcript speak for  
11 itself, and we'll move on.

12 A Okay.

13 Q Did you ever sue Dean Strang?

14 A No.

15 Q Why not?

16 MR. BURNETT: Um...

17 Q I don't want to know about conversations  
18 with your attorney. So if there's any reason other  
19 than your attorney told you not to, I'd like to know  
20 why you decided not to sue Dean Strang.

21 A There is no other reason than what you just  
22 stated.

23 Q Do you understand that you can't sue people  
24 for defamatory things they say about you in court?  
25 And I'm not asking for what your attorneys have told

1           Q     So if you could flip back to Exhibit 7,  
2           that's that email with Mr. Dunphy we spoke about  
3           earlier today.

4           A     Yeah, got it.

5           Q     And you sent this email on January 12th,  
6           2016, correct?

7           A     Yes.

8           Q     So, again, as you said, that was pretty  
9           quickly after the release of Making a Murderer,  
10          right?

11          A     Yes.

12          Q     Okay. So we talked about -- on the first  
13          page of this email to Mr. Dunphy, we've already  
14          talked about your statement to him that the claims by  
15          the Netflix documentary mirror those claimed by the  
16          defense during trial. You remember discussing that  
17          this morning, correct?

18          A     Yes.

19          Q     So let me direct you to the second page here  
20          of the same exhibit.

21          A     I'm sorry. What was the exhibit number  
22          again? Sorry about that.

23          Q     Number 7.

24          A     7. Got it. Okay.

25          Q     So if you go to the second page --

1 A Okay.

2 Q -- the fourth line down, about midway in it  
3 says, "During the trial." Do you see that?

4 A Yes.

5 Q And I'll read it out loud. You wrote to  
6 Mr. Dunphy, "During the trial Mr. Avery was very well  
7 represented by Attorney Dean Strang from Madison,  
8 Wisconsin and Attorney Jerome Buting from Brookfield,  
9 Wisconsin. In short, the defense was that I and  
10 another now retired police officer planted the  
11 evidence that led to Mr. Avery's conviction." Did I  
12 read that correctly?

13 A Yes.

14 Q Okay. And you stand by that statement as  
15 you sit here today?

16 A I stand by the statement that I authored  
17 that, but, again, I feel that the planting of  
18 evidence defense was never truly presented to me in  
19 the trial and it was only one aspect of their  
20 defense.

21 Q Well, then why did you say that to someone  
22 you were trying to hire? Do you think what you told  
23 Mr. Dunphy is inaccurate?

24 A Well, one, I wasn't very happy when I penned  
25 this, and two, you know, the whole email was written

1 more out of emotion than it was with forethought, and  
2 I probably should have referred Mr. Dunphy to  
3 Mr. Strang's and Mr. Buting's out-of-court comments.

4 Q So you didn't think as carefully about how  
5 to phrase it in this email as you've thought about  
6 how to phrase it at today's deposition; is that fair?

7 A Well, I've had a lot more years of getting  
8 it thrown in my face. So, you know, it's probably  
9 by -- in January, what was it, 12th of '16 after  
10 Making a Murderer had been out exactly one month, I  
11 didn't phrase it as well as I should have.

12 Q So you weren't accurate when you were  
13 describing the case to people you were hoping to hire  
14 as an attorney; is that correct?

15 A I probably wasn't as accurate as I should  
16 have been, no.

17 Q Let's take a look at Exhibit 49.

18 (Exhibit 49 marked for identification.)

19 A I don't think I have that.

20 Q I'm giving you that one.

21 A Oh, okay.

22 Q Would you like us to get those in order for  
23 you?

24 A We can do it at a break.

25 Q Okay.



1           A       I'll page through it, but thank you.

2           Q       This is another email that you sent to  
3       Patrick Dunphy on January 12th, 2016. Do you see  
4       that?

5           A       Yes.

6           Q       You wrote, "Dear Sir, I now see Attorney  
7       Strang will be giving a presentation on the Avery  
8       case on 1/27/16 in Minneapolis, Minnesota at Sisyphus  
9       Brewing. It's sold out or I would try to obtain a  
10      record of the 'event' for you as I am guessing my  
11      name will be bantered about quite a bit.  
12      Specifically the claims against me are these: That  
13      all evidence gathered at the crime scene was planted,  
14      including the victims bones which were located in a  
15      fire pit next to the Avery's residence where he  
16      burned her body after dismembering her. In Avery's  
17      home was located the key to the victim's vehicle,  
18      which had Avery's DNA on it. Their story is I  
19      planted the key. I am being accused of breaking into  
20      our own courthouse and stealing a vial of blood that  
21      was used as an exhibit in Avery's first trial. Next  
22      I am accused of either killing the victim, or giving  
23      her to someone else who killed her and then planting  
24      her body at Avery's residence. I know this sounds  
25      unbelievable but you can't make this stuff up." I

1       lost my place for just a minute. If you skip down a  
2       few lines, two, three, four, five, six, seven, it  
3       goes on to say, "If you are in disbelief I assure  
4       this is all in the court records of this case." Do  
5       you see where I stopped there?

6             A       Yes.

7             Q       Okay. So you're telling Patrick Dunphy that  
8       all of these accusations against you about planting  
9       evidence are in the court records of the case,  
10       correct?

11            A       Yes, that's what I'm telling him.

12            Q       Okay. Do you want to change your story  
13       today?

14            A       No.

15            Q       You stand by that statement?

16            A       What do you mean by change my story? I  
17       guess can you clarify?

18            Q       Well, do you -- yeah. When you tell Patrick  
19       Dunphy that at trial you were accused of all of these  
20       things and that you can assure him that this is all  
21       in the court records for this case, do you stand by  
22       that statement as you sit here today?

23            A       Yes, I did tell him that, but I didn't have  
24       the trial transcript in front of me and reviewed the  
25       trial transcript for a case that had happened ten

1       years ago.

2               **Q       So you're changing your story?**

3                       MR. BURNETT:  Objection, form.

4               A       I'm saying I based a lot of this information  
5       off social media, threats that were being made to me,  
6       and I didn't have the trial transcript in front of  
7       me.

8               **Q       Any other reason you're departing from that**  
9       **statement?**

10              A       No, no other reason.

11              **Q       Two lines down from there you say, "The**  
12       **defense continues, in part thru Netflix, to maintain**  
13       **and keep alive these lies to this day.  Just last**  
14       **week Strang was on WTMJ Radio saying these things I**  
15       **just mentioned.  The trial was over 10 years ago, how**  
16       **much longer can the defense attorneys continue this**  
17       **crusade against my agency and me personally??"  Did I**  
18       **read that correctly?**

19              A       Yes.

20              **Q       And if I'm reading this, you believe the**  
21       **defense team lied about you during the trial,**  
22       **correct?**

23              A       Yes.

24              **Q       Okay.  That's when their crusade against you**  
25       **began, correct?**

1       aware of the amount of video splicing that had  
2       occurred to, for instance, take my image from one  
3       area and transplant it to another.

4               **Q       Okay.**

5               A       I believe that was the idea behind it, to  
6       make me appear more guilty.

7               **Q       I'm going to hand you what we've marked as**  
8       **Exhibit 16-E.**

9                       MS. WALKER: I think my numbering might  
10       be a little off. Okay. 16-B.

11                      (Exhibit 16-B marked for identification.)

12               **Q       This is from page 103 of Mr. Griesbach's**  
13       book *Indefensible*, and I'll just read you starting  
14       with the word "after" at the top of page 103. "After  
15       all, I could imagine without justifying it for a  
16       minute that convinced of Stevens Avery's guilt, but  
17       concerned there was not evidence to convict him.  
18       Colborn and/or Lenk could have planted the key to  
19       strengthen the case. Short of being in the room  
20       where they found the key, I realize it's impossible  
21       to know with 100 percent certainty." Did I read that  
22       correctly?

23               A       Yes.

24               **Q       And you know what happened in that room when**  
25       the key was found, don't you, Mr. Colborn?

1           A       Yes, I do.

2           Q       But unless Mr. Griesbach was in the room  
3 with you or any of us sitting here today were in the  
4 room with you, none of us can know with 100 percent  
5 certainty, correct?

6           A       I would think that I drove that point home  
7 in the trial, and based on the subsequent conviction,  
8 I believe the jury was convinced of it.

9           Q       We would have to trust you, correct,  
10 Mr. Colborn?

11          A       Yes, you would have to trust that I was  
12 telling the truth under oath.

13          Q       And the jury found for the prosecution and  
14 convicted Mr. Avery, correct?

15          A       Yes, they did.

16          Q       And the jury's findings were included in  
17 Making a Murderer, correct?

18                   MR. BURNETT: Objection, form.

19          Q       Do you know?

20          A       I have not watched a clip of or any of  
21 Making a Murderer when the jury verdict is read or --  
22 so I can't answer you positively. I don't know what  
23 was included. I don't know what episode that was in.

24          Q       You have no reason to dispute that it was  
25 included, correct?

1       **motivation that you had for wanting to see Steven**  
2       **Avery convicted for Teresa Halbach's murder?**

3                   MR. BURNETT: Same objection.

4           A       Not until the Kratz redirect. I wasn't -- I  
5       didn't know where Dean Strang was going with his  
6       questions about the -- this phone call, but the Ken  
7       Kratz redirect seemed to have summed it up or pointed  
8       it out that that's where he was headed with it.

9           Q       And I think Ken Kratz's redirect, it even  
10      went one step further, right, in that he's saying  
11      this didn't give you motivation to frame Steven  
12      Avery?

13      A       Yes, that's correct.

14      Q       And it didn't give -- and it didn't give you  
15      motivation to plant evidence against Steven Avery,  
16      right?

17      A       Correct.

18      Q       And then you denied, you said, "I never did  
19      plant evidence against Steven Avery," right?

20      A       Or anyone.

21      Q       Or anyone.

22      A       Correct.

23                   MR. BURNETT: When we get to a stopping  
24      point, can we take a break?

25                   MR. VICK: Yeah. Sure. Probably just a

1 couple more minutes. Then I've got a natural spot.

2 MR. BURNETT: Take your time.

3 MR. VICK: Then we're done with this --  
4 the '94, '95 call.

5 MR. BURNETT: That makes sense.

6 Q And one of your complaints in this case  
7 about Making a Murderer is that it shows this line of  
8 argument, right, that Steven Avery's attorneys were  
9 suggesting that you had planted evidence against him,  
10 right?

11 A We discussed this yesterday at length. I  
12 was never accused of planting evidence, so I'm not  
13 going to say that that's what their defense was.

14 Q Would you agree with me that they were  
15 strongly suggesting that?

16 A No.

17 Q Would you agree with me that Ken Kratz's  
18 redirect shows that he understood that that's what  
19 they were driving at?

20 MR. BURNETT: Objection, form,  
21 foundation.

22 Q Let me rephrase that. Did it occur to you  
23 that Ken Kratz was asking you to deny that you were  
24 motivated to frame Steven Avery based on the '94, '95  
25 call? Did that suggest to you that Ken Kratz

1           Q     Was that just a coincidence or was that an  
2           arrangement where if you and Lieutenant Lenk were  
3           doing a search, there had to be someone from Calumet  
4           County there?

5           A     My understanding is as it pertained to  
6           myself and Lieutenant Lenk or myself and Dave  
7           Remiker, but he wasn't out there all that long due to  
8           a family issue, or the three of us together, there  
9           would also be somebody with Calumet County with us.

10          Q     Was that the only instance in your law  
11          enforcement career where when you were conducting  
12          searches of a premises, you had to have someone from  
13          another county with you?

14          A     Yes. That was definitely a unique  
15          situation.

16          Q     Did you resent it a little bit?

17          A     No.

18          Q     Did you understand it?

19          A     Yes.

20          Q     What did you think was the justification for  
21          it?

22          A     I imagine that they wanted the lead -- two  
23          lead investigators, which were Calumet County --  
24          investigating agencies I should say, which was  
25          Calumet County and Wisconsin Department of Justice,



1       wanted to make sure that there was somebody from  
2       Calumet County to rebut any unfounded accusations  
3       that Manitowoc County had done something improper.

4           **Q       But despite that, there were accusations**  
5       **along those lines at Steven Avery's trial, right?**

6           A       I wasn't privy to Steven Avery's entire  
7       trial. No accusations were made of me, if that  
8       helps.

9           **Q       While you were on the stand?**

10          A       Correct.

11          **Q       Would you agree that suggestions were made**  
12       **or implications were made that you or Lieutenant Lenk**  
13       **had planted the key that was later found in Steven**  
14       **Avery's bedroom that turned out to be the key to**  
15       **Teresa Halbach's car?**

16                   MR. BURNETT: Objection, form,  
17       foundation.

18          A       I was just waiting for the aircraft. My  
19       impression was that while there were questions asked  
20       by defense counsel on how -- you know, how we hadn't  
21       found the key until the seventh search, it appeared  
22       to me that they had abandoned the planting theory and  
23       had switched, in my opinion or my perception, to some  
24       sort of procedural defense, that I had missed some  
25       sort of procedure or that Lieutenant Lenk had missed

1       some sort of procedure.

2               Q       Switching back to November 8th of 2005, that  
3       was the date when the key was found in his bedroom,  
4       right?

5               A       On November 8th?

6               Q       8th.

7               A       Yes, I believe so.

8               Q       And you were there that day in your capacity  
9       as an evidence tech; is that correct?

10              A       Yes.

11              Q       Now, in your Second Amended Complaint, you  
12       allege that Making a Murderer -- Making a Murderer  
13       did not include a photograph of the bookcase that you  
14       testified about when you were on the stand at the  
15       criminal trial; is that correct? I can show you  
16       where in the Complaint it is if you'd like.

17              A       Yeah, please.

18              Q       Sure. It's paragraph 44.

19              A       Okay. Okay. I've read it. Thank you.

20              Q       Are you familiar with the photograph in  
21       question that the Complaint's referring to here?

22              A       I know there's a photograph that was taken  
23       showing that the veneer back of the bookcase had  
24       separated from the actual frame of the piece of  
25       furniture.

1           Q     How about Brenda Schuler, did she volunteer  
2     to get involved or did you ask her?

3           A     I believe Michael asked her.

4           Q     Now, you've mentioned a few times today that  
5     you're an introvert, right?

6           A     I don't recall if I mentioned it today, but  
7     certainly during my deposition with Attorney Walker I  
8     did.

9           Q     And so probably being in the spotlight,  
10    that's not your idea of a good time, right?

11          A     No, it's not.

12          Q     Does it make you nervous?

13          A     I'm not -- I don't like being in the  
14    spotlight. I can't necessarily say that it's because  
15    it makes me nervous. I just don't like to be the  
16    center of attention.

17          Q     Uncomfortable would be a fair  
18    characterization?

19          A     Sure.

20          Q     Has this deposition made you feel nervous or  
21    uncomfortable?

22          A     Well, I'm a private person. It's what an  
23    introvert is. I'm being asked very private, personal  
24    questions. Yes, it makes me feel uncomfortable.

25          Q     I'd like to look back at Exhibit 2.

1           A       Is that the Amended Complaint?

2           Q       **It is, yeah.**

3           A       Okay.

4                   MR. BURNETT: Are we in a position to  
5 wrap this up?

6                   MR. VICK: We are.

7                   MR. BURNETT: Great.

8           Q       **I'd like you to look at paragraph 37**  
9 **specifically.**

10          A       Okay. Okay.

11          Q       **So here you say, "Defendants Ricciardi and**  
12 **Demos strategically spliced 'reaction' shots of**  
13 **plaintiff appearing nervous and apprehensive at trial**  
14 **into other portions of his testimony where he did not**  
15 **appear nervous or apprehensive in fact." Do you see**  
16 **that?**

17          A       Yes.

18          Q       **Do you recall what it was about your**  
19 **demeanor in any of the shots that made you look**  
20 **nervous or apprehensive? Was there anything that you**  
21 **can recall right now that made you feel that way?**

22          A       Specifically the clip that you showed me  
23 that I commented on earlier where it appears that  
24 Dean Strang is giving me some sort of staredown and  
25 the -- it pans to the shot of me leaning back and

1       cracking my knuckles.

2                   I did that during a recess out of the view  
3       of the jury. I certainly didn't do it in front of  
4       Attorney Strang, but it certainly does make me look  
5       nervous and apprehensive and that I've been caught in  
6       some sort of lie.

7           Q       Now, Mr. Colborn, I'm not sure if you're  
8       aware, but during this deposition the last couple  
9       days, you've kept your head down a decent amount.  
10      Does that sound right?

11           A       I'm frequently reading, but yes.

12           Q       And you've sometimes had your head in your  
13      hands or cracked your knuckles in the course of this  
14      deposition. Does that sound right?

15           A       Okay. I don't recall that, but I don't know  
16      what -- what you want me to -- what you're trying  
17      to -- can you clarify a little bit for me?

18           Q       Well, is it possible that maybe things like  
19      cracking your knuckles or looking down, that that's  
20      just a natural mannerism of yours?

21           A       The footage that I've watched of my trial  
22      testimony, I frequently make contact with whoever  
23      questioning me. Now, I was not in trial given a  
24      stack of documents like this and told frequently to  
25      go to this page, go to that page, look at this, look

1 at that, read that. So that requires me to look down  
2 in order to be able to see it.

3 MR. VICK: George, I think I'm done.  
4 Could I take two minutes?

5 MR. BURNETT: Sure. Thank you.

6 THE VIDEOGRAPHER: Going off the record  
7 at 4:32.

8 (Brief recess held.)

9 THE VIDEOGRAPHER: Back on the record at  
10 4:38.

11 MR. VICK: I wanted to make one  
12 correction. I had said that Ms. Ricciardi had --  
13 that it was with the U.S. Attorney's Office. I've  
14 been informed it's actually the Manhattan DA's  
15 Office. I just didn't want to have anything wrong  
16 there.

17 Q (By Mr. Vick:) Question for you. Was there  
18 any disciplinary action gains you by the Manitowoc  
19 County Sheriff's Department after Making a Murderer  
20 came out?

21 A Not that I recall, no. The fact that I sent  
22 that email to John Ferak didn't go over very well,  
23 but I wasn't disciplined out of a verbal counseling  
24 session.

25 Q What did they tell you in the verbal

CERTIFICATION PAGE

STATE OF WISCONSIN )

MILWAUKEE COUNTY )

I, PAULA M. HUETTENRAUCH, RMR, CRR,  
Notary Public in and for the State of Wisconsin, do  
hereby certify:

That prior to being examined, the  
deponent named in the foregoing deposition,  
ANDREW L. COLBORN, was by me duly sworn to testify  
the truth, the whole truth, and nothing but the  
truth.

That said deposition was taken before  
me at the time, date, and place set forth; and I  
hereby certify the foregoing is a full, true, and  
correct transcript of my shorthand notes so taken and  
thereafter reduced to computerized transcription  
under my direction and supervision.

I further certify that I am neither  
counsel for nor related to any party to said action,  
nor in any way interested in the outcome thereof; and  
that I have no contract with the parties, attorneys,  
or persons with an interest in the action that  
affects or has a substantial tendency to affect  
impartiality, or that requires me to provide any  
service not made available to all parties to the  
action.

IN WITNESS WHEREOF, I have hereunto  
subscribed my name this 28th day of July, 2022.



Paula M. Huettenrauch, RMR, CRR  
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023

